II. Claim Rejections - 35 U.S.C. § 102

1) The Examiner has rejected claims 1-11 and 15-33 under 35 U.S.C. § 102(b) as being anticipated by Sony Corporation (EP 0744840 A2) ["Sony"].

2) The Examiner has rejected claims 1-6, 11 and 15-33 under 35 U.S.C. § 102(e) as being anticipated by Easton *et* al. (US 6,590,886 B1) ["Easton"].

For at least the following reasons, Applicant traverses the rejections.

With respect to the claimed arbitrary write timing and the claimed arbitrary read timing as set forth in independent claims 1, 11, 15, 16, 21 and 22, the Examiner contends that no timer is 100% accurate, and therefore, Sony and Easton disclose the claimed arbitrary read timing and the claimed arbitrary write timing.

Applicant submits that the Examiner's contention that because no timer is a 100% accurate, the reading and writing as disclosed in Sony and Easton are inherently arbitrary is not supported by the MPEP or current case law. Applicant submits that inventions in the technological arts involve a certain amount of imprecision due to manufacturing tolerances and the current state of the pertinent technology.

Interpreting the claims in the broadest manner does not give a license to the Examiner interpret the claims in any manner that he chooses. The claims must be interpreted in the broadest reasonable manner that is also consistent with the interpretation that those skilled in the art would reach. MPEP at 2100-47 citing *In re Cortright*, 165 F.3d 1353, (Holding that the Board's interpretation of "restore hair growth" as requiring the hair to return to its original state was an incorrect interpretation and that one skilled in the art would only require some increase in hair growth.).

Here, one skilled in the art would recognize that timers have a certain amount of imprecision and are not 100% accurate. However, in recognizing this imprecision, one skilled in the art would not equate "arbitrary timing" and "timing" as meaning the same thing. Accordingly, one skilled in the art would not interpret events (such as reading and writing) that are based on the function of a timer as "arbitrary," but, rather, the exact opposite.

If one prescribed to the Examiner's viewpoint, the prior art and claims should not be interpreted to include a certain degree of manufacturing tolerances and limitations of the pertinent technology. Applicant submits that this is not how one skilled in the art would interpret the claims and the prior art.

Accordingly, since the Examiner has not provided a substantive rebuttal or cited any prior art or case law for his interpretation of "arbitrary read timing," Applicant incorporates the arguments submitted in the filing of September 16, 2004, that Sony and Easton do not disclose at least the "arbitrary read timing" as set forth in independent claim 1, 11, 15, 16, 21 and 22.

Applicant submits that the remaining claims are patentable at least by virtue of their respective dependencies.

III. Allowable Subject Matter

Applicant thanks the Examiner for allowing claims 13 and 14 and for indicating that claim 12 would be allowable if rewritten in independent form.

Applicant holds rewriting claim 12 in abeyance until the subject matter regarding the base claim is resolved.

IV. Conclusion

In view of the above, reconsideration and allowance of this application are now believed to be in order, and such actions are hereby solicited. If any points remain in issue which the Examiner feels may be best resolved through a personal or telephone interview, the Examiner is kindly requested to contact the undersigned at the telephone number listed below.

The USPTO is directed and authorized to charge all required fees, except for the Issue Fee and the Publication Fee, to Deposit Account No. 19-4880. Please also credit any overpayments to said Deposit Account.

Respectfully submitted,

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